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UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA
SAN FRANCISCO DIVISION

SONOS, INC.,

Plaintiff,

vs.

GOOGLE LLC

Defendant

Case No. 3:20-cv-06754-WHA
Consolidated with Case No. 3:21-cv-07559-
WHA

**GOOGLE LLC'S REVISED OMNIBUS
ADMINISTRATIVE MOTION TO FILE
UNDER SEAL PURSUANT TO THE
COURT'S ORDER RE NEW MOTIONS
TO SEAL (DKT. 846)**

1 **I. INTRODUCTION**

2 Pursuant to Civil Local Rules 7-11 and 79-5 and the Court’s Order re New Motions to Seal
 3 (Dkt. 846) (“Order”), Google LLC (“Google”) hereby submits this Revised Omnibus
 4 Administrative Motion to File Under Seal and requests that the Court seal the portions of the
 5 documents identified in the charts below. In light of the Order’s directive to—“for each every
 6 request to seal”—“describe how [Google] has narrowed its request (1) from the original request to
 7 seal and (2) from any revised request to seal” and provide bases for sealing that “speak to specific
 8 information in specific pages that it seeks to seal,” Google has filed Charts A, B, and C containing
 9 this information as attachments to this motion for ease of reference. *Id.* at 3. The requests are also
 10 supported by the accompanying Declarations of Jocelyn Ma and Sean Pak.

11 **II. LEGAL STANDARD**

12 Civil Local Rule 79-5(c) provides that a party seeking to file its own documents under seal
 13 must file an administrative motion that articulates the applicable legal standard and reasons for
 14 keeping a document under seal, includes evidentiary support from a declaration where necessary,
 15 and provides a proposed order that is narrowly tailored to seal only the sealable material.

16 “Historically, courts have recognized a ‘general right to inspect and copy public records and
 17 documents, including judicial records and documents.’” *Kamakana v. City & Cty. of Honolulu*, 447
 18 F.3d 1172, 1178 (9th Cir. 2006) (quoting *Nixon v. Warner Commc’ns, Inc.*, 435 U.S. 589, 597 &
 19 n.7 (1978)). In the Ninth Circuit, two different standards may apply to a request to seal a document
 20 – namely the “compelling reasons” standard or the “good cause” standard. *Blessing v. Plex Sys., Inc.*, No. 21-CV-05951-PJH, 2021 WL 6064006, at *12 (N.D. Cal. Dec. 22, 2021) (citing *Ctr. For Auto Safety v. Chrysler Grp., LLC*, 809 F.3d 1092, 1096-97 (9th Cir. 2016)). “To seal records in connection with a ‘dispositive’ motion or a motion that ‘more than tangentially relate[s] to the merits of a case,’ ‘compelling reasons supported by specific factual findings that outweigh the general history of access and the public policies favoring disclosure’ are required.” *Bronson v. Samsung Elecs. Am., Inc.*, No. C 18-02300 WHA, 2019 WL 7810811, at *1 (N.D. Cal. May 28, 2019) (quoting *Kamakana*, 447 F.3d at 1178-79). “A particularized showing of ‘good cause’ under Federal Rule

1 of Civil Procedure 26(c), however, suffices to warrant sealing in connection with a non-dispositive
 2 motion.” *Id.*

3 **III. THE COURT SHOULD SEAL GOOGLE’S CONFIDENTIAL INFORMATION**

4 Pursuant to the Court’s directive in the Order, Google has submitted further revised,
 5 narrowly-tailored requests that seek to seal documents or portions thereof after review of the
 6 information that has already become public over the course of this litigation via court filings, orders,
 7 public hearings, at trial, and otherwise. In addition, although Google was obligated to produce a
 8 broad range of information it considers confidential and proprietary to defend against Sonos’s
 9 allegations of infringement (including for patents that were ultimately invalidated), Google has also
 10 further removed redactions beyond information was publicly disclosed—reducing the total number
 11 of documents it seeks to seal from approximately 120 documents to approximately 60 documents,
 12 many of which are repeat versions of the same document. The bases for these narrowed sealing
 13 requests discussing “specific information in specific passages” are provided in Charts A, B, and C
 14 attached, and are further supported by the Declaration of Jocelyn Ma filed in conjunction with this
 15 motion.

16 A. Google’s Confidential Zone Scenes-Related Technical Information Warrants
 17 Sealing

18 Google requests that the Court seal the portions of documents identified in Chart A, which
 19 contain Google’s confidential information filed in connection with Sonos’s claims as to the ’885
 20 and ’966 patents (“zone scenes” patents). In light of the Court’s directives in its Order, the only
 21 such technical information Google still seeks to seal are portions of documents containing highly
 22 confidential flows of source code that provide details regarding the operation, organization, and
 23 hierarchy of such source code for the grouping and playback functionalities of current Google
 24 products—and that were not discussed at trial. Under both the “good cause” and the heightened
 25 “compelling reasons” standard, courts have determined that this type of source code information
 26 and related technical information merits sealing. *See, e.g., In re Koninklijke Philips Pat. Litig.*, No.
 27 18-CV-01885-HSG, 2020 WL 1865294, at *2 (N.D. Cal. Apr. 13, 2020) (sealing “source code” and
 28 “information related to technical production” because “[t]he public release of these documents could

1 give non-party competitors an unfair advantage in developing rival products"); *Finjan, Inc. v.*
 2 *Proofpoint, Inc.*, No. 13-CV-05808-HSG, 2016 WL 7429304, at *2 (N.D. Cal. Feb. 9, 2016) (sealing
 3 "information about the technical operation of the products"). In addition, this Court has previously
 4 granted sealing of this type of information. *See, e.g.*, Dkt. 518 at 6, 8, 12, 13.

5 Further explanation for Google's sealing requests and the harm that Google would suffer
 6 from the disclosure of this information is contained in Chart A. A less restrictive alternative than
 7 sealing these documents or portions thereof would not be sufficient because the information sought
 8 to be sealed is Google's confidential business information and trade secrets, but had to be utilized
 9 by Google throughout the litigation.

10 B. Google's Confidential Cloud Queue-Related Technical Information Warrants
 11 Sealing

12 Google requests that the Court seal the portions of documents identified in Chart B, which
 13 contain Google's confidential information filed in connection with Sonos's claims as to the '615
 14 and '033 patents ("cloud queue" patents). Sonos accused Google applications such as YouTube,
 15 YouTube Kids, YouTube TV, YouTube Music, and Google Play Music (collectively, "Accused
 16 Cloud Queue Products") of infringing Sonos's cloud queue patents. *See* Dkt. 566 at 3. However,
 17 these claims—and Google's technical information related thereto—were not presented to the jury
 18 because the Court found on summary judgment the asserted claims of both patents invalid and claim
 19 13 of the '615 patent not infringed. *See* Dkts. 316, 566. Accordingly, while some information
 20 regarding the technical operation of the Accused Cloud Queue Products was made public through
 21 the Court's summary judgment orders, the following information Google still seeks to seal was not
 22 disclosed at trial: source code for the MDx queue functionality, highly confidential flows of source
 23 code that provide details regarding the operation, organization, and hierarchy of such source code
 24 for functionalities related to playback of queues on YouTube apps, parameters in a setPlaylist
 25 message that were not at issue in the litigation and pertain to security and verification, detailed
 26 discussion of the technical operation for the certain functionalities of the YouTube apps and Onesie
 27 agent, information providing confidential architecture, infrastructure, and implementation details
 28 regarding playback operations for YouTube apps, information regarding the data, locations,

1 operation, and hierarchy of servers in Google’s content delivery network, the fields and format
 2 within a Onesie response that relate to security keys, and the personal contact information of a
 3 Google engineer.

4 Courts have determined that this type of source code and related technical information merits
 5 sealing. *See, e.g., In re Koninklijke Philips Pat. Litig.*, 2020 WL 1865294, at *2 (sealing “source
 6 code” and “information related to technical production” because “[t]he public release of these
 7 documents could give non-party competitors an unfair advantage in developing rival products”);
 8 *Finjan*, 2016 WL 7429304, at *2 (sealing “information about the technical operation of the
 9 products”); *In re PersonalWeb Techs., LLC Pat. Litig.*, No. 18-MD-02834-BLF, 2019 WL
 10 13033990, at *2 (N.D. Cal. Dec. 16, 2019) (granting sealing of information regarding cloud servers);
 11 *In re Google Inc. Gmail Litig.*, 13-MD-2430, 2013 WL 5366963, at *2 (N.D. Cal. Sept. 25, 2013)
 12 (granting sealing of “information that if made public Google contends could lead to a breach in the
 13 security of the Gmail system”). In addition, the Court has previously granted sealing of some of this
 14 type of information. *See, e.g.*, Dkt. 518 at 6, 8, 12, 13. Courts have also found that “personal contact
 15 information” warrants sealing under the heightened compelling reasons standard. *Benedict v.*
 16 *Hewlett-Packard Co.*, No. 13-cv-119, 2016 WL 3568922, at *2 (N.D. Cal. July 1, 2016); *see also*
 17 *Nursing Home Pension Fund v. Oracle Corp.*, No. C01-00988 MJJ, 2007 WL 3232267, at *2 (N.D.
 18 Cal. Nov. 1, 2007) (“The Ninth Circuit has found that compelling reasons exist to keep personal
 19 information confidential to protect an individual’s privacy interest and to prevent exposure to harm
 20 or identity theft.”).

21 Further explanation for Google’s sealing requests and the harm that Google would suffer
 22 from the disclosure of this information is contained in Chart B. A less restrictive alternative than
 23 sealing these documents or portions thereof would not be sufficient because the information sought
 24 to be sealed is Google’s confidential business information and trade secrets and its employee’s
 25 personal contact information, but was disclosed or had to be utilized by Google during the litigation.

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1 C. Google's Confidential Damages-Related Information Warrants Sealing

2 Google requests that the Court seal the portions of documents identified in Chart C, which
 3 contain Google's confidential information filed in connection with the calculation of damages for
 4 the cloud queue and zone scenes patents.

5 First, Google seeks to seal the following highly confidential information related to Google's
 6 products accused of infringing the now-invalidated cloud queue patents: (1) non-public financial
 7 and sales for the YouTube apps, Google Play Music app, Pixel devices, and Google TV, (2) the
 8 existence and terms of Google's confidential licensing and purchase agreements, and (3) internal
 9 casting usage metrics for installations data for YouTube applications. This information was not at
 10 issue during trial or used by either party to calculate damages, and thus "would do little to aid the
 11 public's understanding of the judicial process, but would have the potential to cause significant
 12 harm[.]" *Network Appliance, Inc. v. Sun Microsystems Inc.*, No. C-07-06053 EDL, 2010 WL
 13 841274, at *3 (N.D. Cal. Mar. 10, 2010). Second, Google further seeks to seal documents
 14 comprising or referencing a non-binding term sheet between Google and Sonos—for which Sonos
 15 also requests sealing (Dkt. 831)—as well as the related licensing negotiations between the parties.
 16 Third, Google also seeks to seal the following confidential business information that was not
 17 disclosed at trial: (1) compensation information for its employees, (2) internal surveys, studies, and
 18 analyses regarding Google products, (3) internal discussions regarding business strategy and future
 19 plans for Google products and unreleased technology, (4) granular installation information for the
 20 Google Home app, (5) granular sales information for Google's accused hardware products, and (6)
 21 the installation and financial information of third-party IFTTT.

22 Courts have determined that this type of confidential information merits sealing. *See, e.g.*,
 23 *Icon-IP Pty Ltd. v. Specialized Bicycle Components, Inc.*, No. 12-CV-03844-JST, 2015 WL 984121,
 24 at *5 (N.D. Cal. Mar. 4, 2015) (sealing "confidential information relating to sales, revenues, profits
 25 and costs" under the good cause standard); *Finjan, Inc. v. Proofpoint, Inc.*, No. 13-CV-05808-HSG,
 26 2016 WL 7429304, at *2 (N.D. Cal. Feb. 9, 2016) (granting sealing of "financial revenue data"
 27 under the compelling reasons standard); *Icon-IP Pty Ltd. v. Specialized Bicycle Components, Inc.*,
 28 No. 12-CV-03844-JST, 2015 WL 12976921, at *3 (N.D. Cal. Mar. 31, 2015) (granting motion to

1 seal “sensitive business information regarding the amount of royalties received under a licensing
 2 agreement and also detailed information regarding a confidential licensing and manufacturing
 3 agreement” under the good cause standard); *Fed. Trade Comm'n v. Qualcomm Inc.*, No. 17-CV-
 4 00220-LHK, 2018 WL 6575544, at *2 (N.D. Cal. Dec. 12, 2018) (granting sealing of ““patent
 5 licensing agreements or negotiations’ on the basis that such information reveals competitive
 6 sensitive business information”); *Krieger v. Atheros Commc'ns, Inc.*, No. 11-CV-640-LHK, 2011
 7 WL 2550831, at *1 (N.D. Cal. Jun. 25, 2011) (finding information regarding party's “long-term
 8 financial projections, discussions of business strategy, and competitive analyses” sealable under the
 9 compelling reasons standard); *Prescott v. Reckitt Benckiser LLC*, No. 20-CV- 02101-BLF, 2023
 10 WL 2465778, at *2 (N.D. Cal. Mar. 9, 2023) (noting that “[t]he Ninth Circuit has found” “internal
 11 business strategies [and] internal communications” appropriate for sealing); *Arista Networks, Inc.*
 12 v. *Cisco Sys., Inc.*, No. 16-cv-00923-BLF, 2018 WL 2010622, *2-3 (N.D. Cal. Apr 30, 2018)
 13 (sealing “highly confidential” information relating to litigant's “financial information and internal
 14 development strategies”); *Williams v. Apple, Inc.*, No. 19-CV-04700-LHK, 2021 WL 2476916, at
 15 *3 (N.D. Cal. June 17, 2021) (finding that “public disclosure of key metrics” such as the “iCloud
 16 userbase . . . would harm Apple's competitive standing”); *Music Grp. Macao Com. Offshore Ltd. v.*
 17 *Foote*, No. 14-CV-03078-JSC, 2015 WL 3993147, at *1 (N.D. Cal. June 30, 2015)(recognizing that
 18 “sources of business information that might harm a litigant's competitive strategy,” such as
 19 “customer usage information kept confidential by a company that could be used to the company's
 20 competitive disadvantage,” can be sealed under the “compelling reasons” standard). In addition,
 21 this Court has previously sealed some of this type of information. *See, e.g.*, Dkt. 334 at 4.

22 Further explanation for Google's sealing requests and the harm that Google would suffer
 23 from the disclosure of this information is contained in Chart C. A less restrictive alternative than
 24 sealing these documents or portions thereof would not be sufficient because the information sought
 25 to be sealed is Google's confidential business information, but was disclosed or had to be utilized
 26 by Google during the litigation.

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1 D. Google No Longer Seeks to Seal Information Related to the Parties' Collaborations

2 Information regarding Google and Sonos's collaboration and the terms of their partnership
 3 agreements was produced and disclosed in connection with Google's affirmative defenses and
 4 counterclaims for breach of contract and conversion in relation to the cloud queue patents. However,
 5 this information was not discussed during the trial of this matter given the Court's summary
 6 judgment orders finding the '615 patent invalid and not infringed and the '033 patent invalid. *See*
 7 Dkts. 316, 566. Although courts have determined that this type of information regarding
 8 confidential business agreements and partnerships merit sealing under the heightened "compelling
 9 reasons" standard, including this Court, Google nevertheless withdraws its requests to seal such
 10 information and will refile such information publicly in light of the Order's directive. *See* Dkt. 832-
 11 1 ¶ 18; *see also* Dkt. 334 at 2, 3, and 6.

12 **IV. CONCLUSION**

13 For the foregoing reasons, Google respectfully requests that the Court grant Google's
 14 Revised Omnibus Administrative Motion to File Under Seal Pursuant to the Court's Order Re New
 15 Motions to Seal (Dkt. 846).

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 17 DATED: August 9, 2023QUINN EMANUEL URQUHART & SULLIVAN,
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